

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF MICHIGAN

IN RE:

CRISTINA CASTRO

HONORABLE SCOTT W. DALES
CASE NO. 17-03158-SWD
CHAPTER 13

DEBTOR.

LYNN A. OSBORNE (P66545)
Attorney for Debtor
401 W. Ionia Street
Lansing, MI 48933
(517) 708-2992

CRAIG S. SCHOENHERR, SR. (P32245)
Attorney for Creditor
O'REILLY RANCILIO P.C.
Sterling Town Center
12900 Hall Road, Suite 350
Sterling Heights, MI 48313-1151
(586) 997-6481
(586) 726-1000

**MOTION OF HYUNDAI LEASE TITLING TRUST FOR RELIEF FROM THE
AUTOMATIC STAY AND CO-DEBTOR STAY AND FOR WAIVER OF PROVISIONS
OF FRBP 4001(a)(3)**

Hyundai Lease Titling Trust ("Creditor"), pursuant to 11 U.S.C. §§ 361-63, 11 U.S.C. § 1301(a) and LBR 9013 and 4001-1 (W.D.M.), moves for relief from the Automatic Stay and Co-Debtor Stay and for Waiver of Provisions of FRBP 4001(a)(3). This Motion is based on the following:

1. This Court has jurisdiction over the proceeding pursuant to 28 U.S.C. § 1334 and 28 U.S.C. § 157.
2. On January 2, 2017 (the Petition date), Debtor filed a Voluntary Petition for Relief under Chapter 13 of the Bankruptcy Code.

3. On January 2, 2017, the Debtor and Berin Castro-Montoya entered into a Retail Instalment Sales Contract with Creditor to purchase a 2017 Kia Sorento bearing Vehicle Identification No. 5XYPGDA39HG266035.

4. The Plan was confirmed September 8, 2017.

5. The Lease matured April 2, 2020, and the vehicle was returned to the Creditor on February 20, 2020.

6. Berin Castro-Montoya is not a debtor in bankruptcy.

7. Pursuant to 11 U.S.C. §1301(c), the Creditor's interest in the subject vehicle will be irreparably harmed by the continuation of the Co-Debtor Stay.

8. Pursuant to 11 U.S.C. § 362(d)(2), the Debtor and Co-Debtor do not have any equity in said vehicle as the outstanding balance is \$18,747.30 and is approximately equal to the fair market value.

9. The proposed Order for Relief from the Automatic Stay and Co-Debtor Stay and for Waiver of Provisions of FRBP 4001(a)(3) is attached as Exhibit A.

In conclusion, the Creditor respectfully requests the entry of the attached Order granting relief from the Automatic Stay and Co-Debtor Stay and allowing the Creditor to pursue the Co-debtor, Berin Castro-Montoya, for the balance owing on said Contract.

/s/ Craig S. Schoenherr, Sr.

CRAIG S. SCHOENHERR, SR. (P32245)
Attorney for Creditor
12900 Hall Road, Suite 350
Sterling Heights, MI 48313-1151
(586) 726-1000
ecf@orlaw.com

DATED: August 21, 2020